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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PENDLETON DIVISION

OREGON FIREARMS FEDERATION, INC.,
et al.,

Plaintiffs,

v.

TINA KOTEK, et al.,

Defendants.

MARK FITZ, et al.,

Plaintiffs,

v.

ELLEN F. ROSENBLUM, et al.,

Defendants.

KATERINA B. EYRE, et al.,

Plaintiffs,

v.

ELLEN F. ROSENBLUM, et al.,

Defendants.

DANIEL AZZOPARDI, et al.,

Plaintiffs,

v.

ELLEN F. ROSENBLUM, et al.,

Defendants.

Case No. 2:22-cv-01815-IM (*Lead Case*)
Case No. 3:22-cv-01859-IM (*Trailing Case*)
Case No. 3:22-cv-01862-IM (*Trailing Case*)
Case No. 3:22-cv-01869-IM (*Trailing Case*)

CONSOLIDATED CASES

**PLAINTIFFS' AMENDED WITNESS
LIST**

Following multiple conferrals with Defendants and stipulations to agreed-upon facts, Plaintiffs have narrowed the anticipated trial testimony of Plaintiffs' witnesses, as set forth below. Plaintiffs reserve the right to offer other witnesses on rebuttal or for impeachment purposes.

1. Katie Eyre (Plaintiff), Fact Witness

(30 minutes)

Eyre will testify:

- Eyre is a resident of Washington County, Oregon. She is a law-abiding, responsible citizen who is not prohibited from purchasing firearms.
- Before Measure 114 took effect, Eyre was in the process of obtaining a concealed handgun license ("CHL") in Oregon.
- Before Measure 114 took effect, Eyre purchased magazines capable of holding more than 10 rounds of ammunition for the semi-automatic pistol she owns.
- Eyre currently possesses one or more firearm magazines capable of accepting more than 10 rounds of ammunition.
- Eyre owns magazines prohibited by Measure 114 for self-defense and other lawful purposes.
- But for Measure 114, Eyre would acquire more magazines capable of holding more than 10 rounds of ammunition.

Eyre will be prepared to testify regarding her experience with self-defense; her use, possession, and acquisition of firearms; and her experience with firearm background checks in Oregon.

**2. Salam Fatohi (for Plaintiff National Shooting Sports Foundation), Fact Witness
(15 minutes)**

Salam Fatohi is an employee and director of research for Plaintiff National Shooting Sports Foundation (“NSSF”). On behalf of NSSF, he will testify:

- NSSF is a trade association for the firearm, ammunition, and hunting and shooting sports industry.
- NSSF has members in Oregon.
- Exhibit 33 is a record of a regularly conducted activity by NSSF within the scope of its business; it is a record of acts, events, conditions, and/or opinions made at or near the time by — or from information transmitted by — someone with knowledge; the record was kept in the course of a regularly conducted activity of NSSF; making the record was a regular practice of that activity; and neither the source of information nor the method or circumstances of preparation indicate a lack of trustworthiness.

Fatohi will be prepared to testify regarding NSSF’s business; NSSF’s business records (specifically Exhibit 33); and NSSF’s information and knowledge regarding the number and types of firearms and magazines owned and used by Americans.

**3. Adam Johnson (Plaintiff), Fact Witness
(30 minutes)**

Johnson will testify:

- He is an adult over the age of twenty-one and resident of the State of Oregon, Marion County.

- He is a law-abiding, responsible citizen who is not prohibited from purchasing firearms. Johnson is a licensed federal firearms licensee (FFL) by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).
- As of the date Measure 114 was scheduled to take effect, Johnson possessed, and continues to do so, numerous firearm magazines capable of accepting more than 10 rounds of ammunition.
- But for Oregon's restrictions on magazines over 10 rounds, and Johnson's reasonable fear of criminal prosecution for violating them, Johnson would continually possess magazines over 10 rounds in Oregon for lawful purposes, including in-home, outside self-defense and training of law enforcement personnel and civilians.
- Johnson owns Coat of Arms Custom Firearms, a retail firearms and accessory store in Keizer, Oregon.
- Coat of Arms sells firearms to the residence of Oregon that utilizes magazines that hold more than ten rounds of ammunition.
- Coat of Arms also sells magazines to the public that hold more than ten rounds of ammunition.
- His business sales will be adversely impacted if and when Measure 114 is fully implemented.
- He has had to fire more than ten round of ammunition in self-defense.

Johnson will be prepared to testify regarding his experience with self-defense; his use, possession, and acquisition of firearms; and his experience with firearm background checks in Oregon. Johnson will be prepared to testify regarding his firearms business; Coat of Arm's experience with

Oregon firearm background checks; the effect of Measure 114 on his business; and his knowledge regarding firearms.

4. Damian Bunting (Plaintiff), Fact Witness

(15 minutes)

Bunting will testify:

- He is an adult over the age of twenty-one and resident of the State of Oregon, Multnomah County. He is a law-abiding, responsible citizen who is not prohibited from purchasing firearms.
- Bunting is certified by the Oregon Department of Public Safety Standards and Training (DPSST) under the Armed Private Security program.
- He has received firearms training certified by DPSST. Bunting is the owner of Security Guard Training Academy LLC. He works as an armed security guard.
- Bunting owns magazines prohibited by Measure 114 for self-defense, for other lawful purposes and daily while working as an armed private security officer.
- But for Oregon's restrictions on magazines over 10 rounds and his reasonable fear of criminal prosecution for violating them, Bunting would continually possess a magazine over 10 rounds in Oregon for lawful purposes, including in-home and outside self-defense, and for the defense of the clients he works for as a security officer.

Bunting will be prepared to testify regarding his experience with self-defense; his use, possession, and acquisition of firearms; and his experience with firearm background checks in Oregon.

5. Sheriff Brad Lohrey (Plaintiff), Fact Witness

(30 minutes)

Sheriff Lohrey will testify:

- He is an adult over the age of twenty-one and resident of the State of Oregon, Sherman County and Sheriff of Sherman County. He is a law-abiding, responsible citizen who is not prohibited from purchasing firearms.
- Lohrey owns magazines prohibited by Measure 114 for self-defense and other lawful purposes.
- But for Oregon's restrictions on magazines over 10 rounds and his reasonable fear of criminal prosecution for violating them, Lohrey would continually possess a magazine over 10 rounds in his private life and off duty in Oregon for lawful purposes, including in-home and outside self-defense.
- Lohrey will further testify that he has been a law enforcement officer for 30 years and has been involved in many investigations of serious criminal offenses that have ultimately resulted in offenders being sentenced to prison/jail or otherwise punished. These offenders, their families, and/or their friends can sometimes be angry and seek retaliation against Lohrey for the part that he played in a given investigation.
- Lohrey will state that has received many death threats over the years. Lohrey will testify that he has also been physically confronted while off-duty.
- In Sherman County, many citizens know who Lohrey is, where he lives, and the places that he frequents. Lohrey will testify that he faces a very real and serious threat to personal safety because of the length of time spent as a law enforcement officer he plans on carrying a firearm with a magazine capacity of over ten rounds for personal self-defense.

Lohrey will be prepared to testify regarding his experience with self-defense; his use, possession, and acquisition of firearms; and his experience with firearm background checks in Oregon.

6. Sheriff Brian Pixley (Plaintiff), Fact Witness

(30 minutes)

Sheriff Pixley will testify:

- He is an adult over the age of twenty-one and resident of the State of Oregon, Columbia County and Sheriff of Columbia County. He is a law-abiding, responsible citizen who is not prohibited from purchasing firearms.
- Pixley owns magazines prohibited by Measure 114 for self-defense and other lawful purposes.
- But for Oregon's restrictions on magazines over 10 rounds and his reasonable fear of criminal prosecution for violating them, Pixley would continually possess a magazine over 10 rounds in his private life and off duty in Oregon for lawful purposes, including in-home and outside self-defense.
- Pixley will testify that he has been a law enforcement officer for 20 years. Those persons sent to prison or other punishment sometimes seek to retaliate against Pixley. Many people in Columbia County know who Pixley is, where he lives, and the places that he frequents.
- Pixley will testify that he has received death threats and his family has been threatened due to the nature of his work. Pixley has also been confronted in person while off duty. Pixley will testify that he carries a firearm while he is off duty to protect himself and his family.
- Almost every magazine owned by him has a capacity of more than 10 rounds.

Pixley will be prepared to testify regarding his experience with self-defense; his use, possession, and acquisition of firearms; and his experience with firearm background checks in Oregon.

7. Karen LeJeune (OSP), Fact Witness

8. Wendy Landers (OSP), Fact Witness

(Collectively, 60 minutes)

Karen LeJeune and Wendy Landers are employees of the Oregon State Police, and they were designated as Rule 30(b)(6) witnesses by Defendants. Plaintiffs anticipate calling one or both as adverse witnesses. Based on their depositions, they can be expected to testify regarding:

- Background Check delays by the FICS Unit.
- FICS Unit procedures and operations.
- The effect of M114 on the FICS Unit personnel and procedures.
- FICS Unit personnel decisions.
- The understaffing and underfunding of the FICS unit.
- Creation, implementation, and application of the Permit to Purchase Program required by M114.
- The lack of funding for the Measure 114 program.
- Communications with the Federal Bureau of Investigations regarding background checks related to M114.
- The effect of M114 on the Oregon State Police personnel and procedures.
- Communications with Oregon County Sheriffs, including the Oregon State Sheriffs Association, regarding the creation, implementation, and application of the Permit to Purchase Program in Oregon counties.

- Business records of the Oregon State Police, produced in this matter and identified by Plaintiffs as trial exhibits.

9. Jessica Harris, Fact Witness

(15 minutes)

Ms. Harris will testify:

- She is an owner of plaintiff G4 Archery, LLC, a federally licensed firearm dealer located in Douglas County which sells firearms in Oregon equipped with magazines with a capacity in excess of ten rounds, as well as standalone magazines with a capacity in excess of ten rounds.
- That G4 Archery intends to continue selling these magazines and firearms equipped with them but will be forced to cease its activity and lose revenues if and when Measure 114 goes into effect.
- She will also testify that she is a member of Second Amendment Foundation, Inc. and Firearms Policy Coalition
- She will testify as to the recent sales by G4 Archery, LLC, in Oregon of weapons with and without magazines with a capacity in excess of ten rounds.

10. Matt French (for Plaintiff Sportsman's Warehouse, Inc.), Fact Witness

(15 Minutes)

Mr. French will testify:

- He is the Vice President, Compliance, of plaintiff Sportsman's Warehouse, Inc., a publicly-traded company, with retail locations in Multnomah, Washington, Jackson, Douglas, Marion, Deschutes, Linn, and Klamath Counties.
- That that each Sportsman's location in Oregon is a federally licensed firearm dealer, and will lose revenues if and when Measure 114 goes into effect.
- He will also testify concerning Sportman's recent sales in Oregon of weapons with and without a capacity in excess of ten rounds.

Expert Witnesses

Plaintiffs intend to call the following expert witnesses, all of whom provided declarations earlier in this case. Those reports contain a substantive summary of their anticipated testimony. These experts may rely upon and discuss any of the documents identified in those declarations, at depositions, or in Plaintiffs' Trial Exhibit List, filed concurrently.

- Massad Ayoob (1.5 hours)
- Clayton Cramer (1 hour)
- Mark Hanish (1 hour)
- Ashley Hlebinsky (1 hour)
- Gary Kleck (1 hour)
- Michael Carrick (1 hour)

DATED: May 22, 2023

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ATTORNEY CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2023, I have made service of the foregoing **PLAINTIFFS' AMENDED WITNESS LIST** of the party listed below in the manner indicated:

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